

FILED 19 DEC 26 15:41 USDC-OR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

PACCAR FINANCIAL CORP., a Washington
Corporation

Plaintiff,

v.

SISKIYOU CASCADE RESOURCES, LLC, an
Oregon LLC, CASWELL THOMPSON LLC,
an Oregon LLC, and JOEL CASWELL, and
individual,

Defendants.

Case No.: 1:19-cv-01962-CL

DEFENDANTS SISKIYOU CASCADE
RESOURCES, LLC AND JOEL
CASWELL'S ANSWER, AFFIRMATIVE
DEFENSES, AND COUNTERCLAIM TO
THE PLAINTIFF PACCAR FINANCIAL
CORP'S COMPLAINT

Defendant Siskiyou Cascade Resources, LLC, and Joel Caswell respond to the PACCAR
plaintiff's allegations stated in their complaint as set forth below. References to paragraphs in
this Answer are references to numbered paragraphs in the Complaint.

1. Defendants lack the knowledge sufficient to admit or deny the allegations specific to
the named plaintiff in paragraph 1.1.
2. Defendants deny the allegations of paragraphs 1.2, 1.3, 1.4, 1.5, and 1.6.
3. Defendants admit the allegations of paragraphs 2.1 and 2.2.

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- 1 4. Defendants admit that Siskiyou Cascade Resources, LLC agreed to lease four
2 commercial vehicles from PACCAR. Defendants deny that description of the vehicles
3 in paragraph 2.3 is the description listed in the lease agreements. Defendants deny
4 that the term of each lease was sixty (60) months.
5
- 6 5. Defendants admit the allegations of paragraph 2.4, and 2.5.
- 7 6. Defendants deny the allegations of paragraph 2.6, 2.7, and 2.8.
- 8 7. Defendants lack the knowledge sufficient to admit or deny the allegations specific to
9 the UCC-1 filing in paragraph 2.9. Defendant Siskiyou Cascade Resources, LLC
10 leased the equipment described in the UCC-1 filing from Caswell Thompson LLC.
11
- 12 8. Defendants lack the knowledge sufficient to admit or deny the allegations in
13 paragraph 2.10.
- 14 9. Defendants deny the allegations of paragraph 2.11
- 15 10. In response to paragraph 2.12, Defendants admit the following: At all times
16 subsequent to PACCAR's desire to sell the equipment described in the lease
17 agreements between PACCAR and Siskiyou Cascade Resources, LLC; Defendants
18 have actively supported that sale. Defendants believe that the value of the equipment
19 leased from PACCAR is in excess of the amounts remaining payable to PACCAR
20 under the lease agreement.
21

22 **RESPONSE TO THE PLAINTIFF'S FIRST CLAIM FOR RELIEF**

23 **Breach of Contract (against Defendants Siskiyou Cascade and Caswell)**

- 24 11. Defendants reallege and incorporate the preceding paragraphs.
- 25 12. Defendants deny the allegations of paragraph 3.1

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1 13. In response to paragraph 3.2, Defendant Siskiyou Cascade Resources, LLC admits
2 that it failed to make payments when due. Defendant Joel Caswell has not had the
3 opportunity, nor has it been requested that he make the payments as guarantor.

4 14. Defendants individually and collectively deny the allegations of paragraph 3.3. If
5 Plaintiff PACCAR had been damaged, any amount could not be reasonably
6 determined until the equipment described in the lease agreement between Siskiyou
7 Cascade Resources, LLC and PACCAR has been sold. Based on information and
8 belief, no part of that equipment has been sold by PACCAR.

9
10 **RESPONSE TO THE PLAINTIFF'S SECOND CLAIM FOR RELIEF**

11 **Uniform Fraudulent Transfer Act (Against all Defendants)**

12 15. Defendants reallege and incorporate the preceding paragraphs.

13 16. Defendants deny the allegations of paragraphs 3.4, 3.5, and 3.6. Prior to being held
14 by Caswell Thompson LLC, the security interest in the equipment described in the
15 UCC-1 filing was held by Rogue Credit Union.

16
17
18 **GENERAL RESPONSES**

19 17. Any factual allegations requiring a response, and not specifically admitted, are
20 denied.

21 18. Defendant Siskiyou Cascade Resources, LLC at all times cooperated with PACCAR
22 as Siskiyou Cascade Resources, LLC attempted to terminate the leases and/or
23 negotiate other terms. PACCAR acted with the utmost duplicity and
24 unprofessionalism.
25

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OTHER DEFENSES AND AFFIRMATIVE DEFENSES

FIRST DEFENSE

(Failure to State a Claim)

19. Plaintiff's complaint fails to state claims upon which relief can be granted.
20. Plaintiff PACCAR has not provided any evidence whatsoever for its claim for damages in the principle amount of \$241,843.57.

SECOND DEFENSE

(Lack of Jurisdiction)

21. Plaintiff PACCAR has not provided any evidence whatsoever for its claim for damages in the principle amount of \$241,843.57. There is no reasonable likelihood that any disputed amounts could be in excess of \$75,000 therefore the court does not have jurisdiction under 28 USC 1332.

THIRD DEFENSE

(Unclean Hands)

22. Plaintiff PACCAR has repeatedly acted in bad faith with duplicity and unprofessionalism. These acts were perpetrated by various individuals including attorneys acting on behalf of PACCAR. Plaintiff cannot now complain about purported acts in the same transaction or proceeding relating to the process.

COUNTERCLAIM

(Attorney Fees; 42 USC 1988(b) and the Court's Inherent Power)

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1 23. The Supreme Court has established a high hurdle for prevailing defendants to clear
2 before being awarded attorney's fees under 42 USC 1988, but that hurdle is not
3 insurmountable. When a plaintiff and their attorney file a lawsuit with claims that are
4 without foundation and lacking any objectively reasonable basis, defendants are
5 entitled to recover attorney fees from the plaintiff. And, under the court's inherent
6 power, the court may find that the plaintiff's counsel's actions warrant the defendants
7 to recover those fees from the plaintiff's counsel in the alternative. This is such a
8 case.
9

10 24. Specifically, at least the following allegations in the plaintiff's complaint are
11 frivolous, unreasonable, and lacking any objectively reasonable foundation (*see*
12 Complaint, paragraph 3.3, 3.5, 3.6, 4.1, 4.2, 4.3)
13

14 a. The allegation that the Plaintiff has damages in the principle amount of
15 \$241,843.57.

16 b. The allegation that the acts of the Defendants constitute violations of the
17 Uniform Fraudulent Transfer Act.

18 c. The allegation that the Plaintiff is entitled to an order declaring the UCC-1
19 filing as void.

20 d. The allegation that the Plaintiff is entitled to prejudgment attachment of the
21 "Trailers".
22

23 e. The Plaintiff's request for Injunctive relief prohibiting transfers or
24 encumbrances.

25 f. The Plaintiff's request for Levy and execution on the Trailers and other assets.
26

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1 g. The Plaintiff's request for a judgment against Defendant Caswell Thompson
2 LLC.

3 25. Plaintiff's claims are frivolous, unreasonable, and without foundation.

4 26. Defendants has incurred and will continue to incur reasonable attorney's fees to
5 defend this matter. Defendants individually or collectively are entitled to recover
6 reasonable attorney fees from the plaintiff, or in the alternative, from plaintiff's
7 counsel.
8

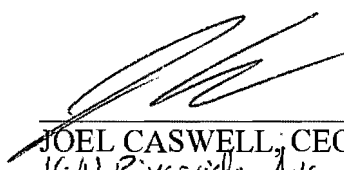
9 **PRAYER FOR RELIEF**

10 WHEREFORE, having fully answered the plaintiff's complaint, defendants pray
11 as follows:

- 12 1. That the court dismiss plaintiff's complaint;
13 2. That the court enter judgement in favor of the defendants;
14 3. That defendants recover their attorney fees, costs, and disbursements incurred
15 herein; and
16 4. That defendants be granted such other and further relief as the court deems
17 just and equitable.
18

19 DATED this 26th day of December, 2019

20 SISKIYOU CASCADE RESOURCES,
21 LLC

22
23 
24 _____
25 JOEL CASWELL, CEO
26 1610 Riverside Ave
Box 4, Suite 214
Medford, OR 97501
(541) 951-5065

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of December, 2019, I served a true copy of the foregoing defendants' answer, affirmative defenses, and counterclaim on:

Joseph A. Grube
Breneman Grube Orehoski, PLLC
1200 Fifth Avenue, Suite 625
Seattle, WA 98101
Of Attorneys for Plaintiff PACCAR Financial Services, Corp

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 CM/ECF system transmission.

 E-mail As required by Local Rule 5.2, any interrogatories, requests for production, or request for admission were e-mailed in Word or WordPerfect format, not in PDF, unless otherwise agreed to by the parties.

 Facsimile communication device.

 X **First-class mail, postage prepaid.**

 Hand-delivery.

 Overnight courier, delivery prepaid.

DATED this 26th day of December 2019.

SISKIYOU CASCADE RESOURCES,
LLC



JOEL CASWELL, CEO